



UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 21 2006

In re Application of : **OFFICE OF PETITIONS**  
Mashinsky et al. :  
Application No. 10/098,667 :  
Filed: March 15, 2002 :  
Attorney Docket Number: 5068-15 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed March 29, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

The petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704..

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed June 7, 2005. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on September 8, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the instant petition and requests revival of the application. A review of the petition reveals that Applicant has asserted that an Amendment in response to the Office action has been filed with the petition; however, no reply to the non-final Office action has been located among the application papers.

Applicable law, Rules and MPEP

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed); (2) the petition fee required by 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). Applicant lacks item (1).

As to item (1), Applicant has not submitted a reply to the Office action.

Further correspondence with respect to this matter should be addressed as follows:

By mail:            Commissioner for Patents  
                      PO Box 1450  
                      Alexandria, VA 22313-1450

By FAX:            (571) 273-8300  
                      Attn: Office of Petitions

By hand:           Customer Service Window  
                      Randolph Building  
                      401 Dulany Street  
                      Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

  
Derek L. Woods  
Attorney  
Office of Petitions